

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL ACTION NO. 3:12 CV-334-RJC

SHARON PEARSON)	
)	
Plaintiffs,)	
)	
vs.)	MOTIONS TO DISMISS
)	R. Civ. Pro. 12(b)(1),
CHARLOTTE-MECKLENBURG)	(2), and (6)
SCHOOLS.)	
)	
Defendant.)	
)	

NOW COMES Defendant, **CHARLOTTE-MECKLENBURG BOARD OF EDUCATION**, on behalf of **Charlotte-Mecklenburg Schools**, by and through counsel, pursuant to Rules 12(b) and 41(b) of the Federal Rules of Civil Procedure and renews its motions to dismiss previously contained in its original pleading, as follows:

**MOTIONS TO DISMISS
R. Civ. Pro. 12(b)(1), (2) & (6)**

Pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6) of the Federal Rules of Civil Procedure this matter should be dismissed in that the Plaintiff has sued the "Charlotte-Mecklenburg Schools", which is not a legal entity that can be sued. In accordance with N.C.G.S. § 115C-40, the body corporate that operates and

maintains the public schools within the Mecklenburg County is the "Charlotte-Mecklenburg Board of Education." Therefore, the Plaintiff has not asserted jurisdiction over the appropriate defendant and has failed to state a claim for which relief may be granted.

R. Civ. Pro. 12(b)(6)

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure this matter should be dismissed for the reason that the Complaint fails to state a cause of action for which relief can be granted against the Defendant, specifically regarding the claim under 42 U.S.C. § 1983, in that the Complaint fails to allege proper causes of action against the Defendant for which monetary damages, or any other remedy, can be awarded by the Court.

The Defendant is filing a brief contemporaneously with its motions.

WHEREFORE, Defendant respectfully prays as follows:

1. That Plaintiff's claims be dismissed in their entirety with prejudice;
2. That Plaintiff have and recover nothing from Defendant;
3. That the costs of this action be taxed against the Plaintiff;
5. For such other and further relief as the Court may deem just and proper.

This the 28th day of November 2012.

CAMPBELL SHATLEY, PLLC

s/ K. Dean Shatley, II
K. Dean Shatley, II
NC State Bar No. 31782
Brian D. Elston
NC State Bar No. 39662
674 Merrimon Ave., Suite 210
Asheville, NC 28804
(828) 398-2775
(828) 398-2795 *fax*

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this *Motions to Dismiss* in the above entitled action upon all parties to this cause by depositing a copy hereof in a post office or official depository under the exclusive care and custody of the United States Postal Service properly addressed to the attorney(s) of record as listed

Ms. Sharon Pearson
1625 Kings Ridge Dr.
#304
Charlotte, NC 28217

This the 28th day of November 2012.

s/ K. Dean Shatley, II